IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.994 OF 2003
IN
SUMMARY SUIT NO.3164 OF 2003

M/s.U.C. Textiles ..Plaintiffs.

Vs.

Vashdev Ramnani & Anr. ..Defendants.

Ms.Neeta Solankhi i/b.M/s.Kiran Jain & Co. for the Plaintiffs.

Mr.P.M.Shah for the Defendants.

CORAM: S.J.VAZIFDAR, J.
DATED: 10TH JUNE, 2005

P.C. :

The suit is filed on a bill of exchange drawn by Defendant No.1 and accepted by Defendant No.2. The execution of the bill of exchange is not denied. There was no reply to the demand notice.

2. The only defence is that the suit is barred by limitation. The defence is unfounded for, by a cheque dated 23rd November, 2000 bearing No.080532 part payment was made. The other answer on behalf of the Defendants is that the broker through whom the transaction was entered into, misutilised the blank cheque lying with him. This defence has been taken for the first time in the affidavit in reply filed on 18th November, 2003. It is therefore

ex-facie false.

3. It was also sought to be contended that the cheque dated 23rd November, 2000 was not towards payment of the suit bill of exchange. This defence is not clear from the affidavit in reply. It was sought to be supported on the basis that the rate of interest for the period for which the said cheque was given was 2% whereas for the earlier period a rate of 1.75% per month was paid. There is no merit in this defence either. In the table set out in paragraph 4 of the plaint, it is stated that the rate of 2% per month was the revised rate. This is clearly established by the fact that this was the rate at which the interest was calculated even in the earlier cheque of 27th January, 2000 and 25th April, 2000 in respect whereof there is no dispute. Thus, to the Plaintiff’s case that the interest is revised, there is no defence. Thus, there is no defence to the suit.

4. The Summons for Judgment is therefore made absolute and the suit is decreed as prayed.

5. Refund as per rules.

All parties to act on an authenticated copy of this order.